

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
CALIFORNIA DEPARTMENT OF WATER RESOURCES

REGARDING THE
2016 CALIFORNIA PLUMBING CODE (CPC)
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

DWR 01-16 (Recycled Water)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Water Resources (DWR) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. DWR is proposing building standards related to plumbing design standards for potable and recycled water systems inside buildings and premises.

PUBLIC COMMENT PERIOD

(Gov. Code, § 11346.5, subd. (a)(17).)

A public hearing has not been scheduled; however, written comments will be accepted from **March 17, 2017, until 5 p.m. on May 1, 2017**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Mia Marvelli, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the California Building Standards Commission to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

(Gov. Code, § 11346.5, subd. (a)(18).)

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

(Gov. Code, § 11346.5, subd. (a)(2).)

DWR proposes to adopt these building standards under the authority granted by Water Code Section 13557. The purpose of these building standards is to implement, interpret, or make specific the provisions of Water Code Sections 13550, 13551, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3.

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DWR is proposing this regulatory action based on Water Code Section 13557.

INFORMATIVE DIGEST

(Gov. Code, § 11346.5, subd. (a)(3).)

Summary of Existing Laws

Assembly Bill 371 (2006) (codified in Water Code, Section 13557) authorized DWR to adopt and submit to the California Building Standards Commission regulations to establish a state version of a plumbing code to provide design standards to safely plumb buildings with both potable and recycled water systems. Such regulations were adopted by DWR in 2009 and by CBSC in 2010 and are codified in Chapter 16A of the California Plumbing Code. Water Code Section 13557(b) also authorizes DWR to update these standards as necessary. To accomplish this, DWR must consider other state laws that regulate the various uses and applications of recycled water and regulations stemming from these laws adopted by other state agencies.

Assembly Bill 2282 (2014) (codified in Health and Safety Code Sections 17921.5 and 18940.6) directed CBSC and the Department of Housing and Community Development (HCD) to adopt regulations regarding the plumbing of newly constructed commercial buildings, public buildings, and single family and multifamily residential buildings for recycled water. Specifically, CBSC and HCD are required to establish provisions for the mandatory installation of recycled water systems and the standards for installation in the California Green Building Standards Code and the California Plumbing Code. These standards for installation of recycled water systems overlap to some extent, the existing standards adopted by DWR in the California Plumbing Code. The regulations to mandate installation in newly constructed buildings however, would not overlap DWR authority.

Water Code Sections 13550, 13551, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3 declare that the use of potable water for certain indoor uses in certain structures is an “unreasonable” use of water if recycled water is available. A general condition of availability is that the use of recycled water from the proposed source will not be detrimental to public health. Section 13553(d)(1)(B) states “That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes.” Water Code Section 10951 authorizes use of recycled water for car washes.

Water Code Section 13521 authorizes the State Water Resources Control Board to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health. These criteria are contained in Title 22 of the California Code of Regulations and contain requirements related to plumbing installation and periodic inspection and testing for indoor uses.

The agencies that treat and distribute recycled water to users are regulated by permits issued by the State Water Resources Control Board or one of nine Regional Water Quality Control Boards as authorized by Water Code Sections 13523 and 13523.1. The California Plumbing Code must take into consideration this permitting authority.

Health and Safety Code Section 116375 authorizes the State Water Resources Control Board to adopt requirements for the control of cross-connections between potable and nonpotable water. Section 116800 authorizes local regulation of water users to control cross-connections. Section 116815 designates the use of the color purple for recycled water pipes. Health and Safety Code Sections 8117 and 8118 authorize hose bibs for recycled water in cemeteries. These laws and the regulations stemming from these laws found in the California Code of Regulations, Titles 17 and 22, must be taken into consideration in the Plumbing Code.

Summary of Existing Regulations

Regulations adopted by DWR governing recycled water are found in Chapters 6 and 16A, Part II of the 2016 California Plumbing Code. Other sections relating specifically to recycled water are found in Chapters 2, 15, and 16 of the Plumbing Code. At the time DWR adopted regulations in 2009, the main provisions for recycled water were in Chapter 16A, Part II. Subsequently the California Plumbing Code

was reorganized based on the adoption by CBSC of the Uniform Plumbing Code as the foundation for the California code. The main group of regulations for recycled water was combined with the regulations for other “alternate water sources”, that is, untreated and treated graywater, in Chapter 15.

Regulations specifying authorized uses of recycled water, use practices, and inspections and cross-connection testing of recycled water systems are found in Title 22, California Code of Regulations, Division 4, Chapter 3, Section 60301.050 et seq. Regulations related to cross-connection control and backflow prevention are found in Title 17, Division 1, Chapter 5, Group 4, Articles 1 and 2, Section 7583 et seq.

Summary of Effect

The main effect of the proposed amendment by DWR would be to move existing requirements in Chapter 16A, Part II of the Plumbing Code into Chapter 15 and merge the language to avoid duplication and achieve clarity for users of the Plumbing Code. Because CBSC and HCD are also proposing regulations related to recycled water in the Plumbing Code, especially in Chapter 15, amending DWR's regulations at this time will allow for melding language of the three agencies where possible. There is also a need to update DWR's regulations to reflect other requirements in state laws and regulations that had not been considered or incorporated in the 2009 rulemaking. The adoption of clear and effective regulations facilitates the expanded use of recycled water and its public acceptance. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The primary benefit of the proposed regulations is the facilitation of the safe use of recycled water. Any changes in substantive requirements are intended to improve safety. The secondary benefit is that having clear and effective regulations facilitates the expanded use of recycled water and its public acceptance. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Evaluation of consistency

Because of a reorganization of the CPC since the adoption by DWR of Chapter 16A, Part II in 2009, there is currently duplication of subject matter in Chapters 15 and 16A with inconsistencies. The proposed amendments are intended to eliminate duplication and inconsistency by migrating content in Chapter 16A, Part II into Chapter 15 and harmonizing the language. Because of the overlapping regulatory authority contained in AB 2282 (codified in Health and Safety Code Sections 17921.5 and 18940.6 to be implemented by HCD and CBSC, respectively) and Water Code Section 13557 (to be implemented by DWR), the three agencies have been coordinating efforts to draft Express Terms for this code cycle. During the code pre-cycle period before submittal of proposed amendments to CBSC, CBSC, HCD, and DWR have been jointly sharing a public participation process and have been cooperating to attempt to harmonize and co-adopt certain proposed code revisions.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

(Gov. Code, § 11346.5, subd. (a)(4).)

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Gov. Code, § 11346.5, subd. (a)(5).)

DWR has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

(Gov. Code, § 11346.5, subd. (a)(6).)

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district. Provide a copy of the "Economic and Fiscal Impact Statement" (Form 399).

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

Estimate: \$0

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

(Gov. Code, § 11346.5, subd. (a)(8).)

The California Department of Water Resources has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

(Gov. Code, § 11346.5, subd. (a)(8).)

The proposed amendment of the Plumbing Code primarily migrates existing standards on how to design, construct, maintain, and test a dual plumbed building from Chapter 16A, Part II to Chapter 15 of the CPC. The proposed amendments by DWR do not require any business or individual to install recycled water systems in a building.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

(Gov. Code, § 11346.5, subd. (a)(11).)

The Legislature has declared in Water Code Section 13510 "that the people of the state have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state." Because the source of recycled water is municipal wastewater, there is concern that the use of recycled water may not be safe if not adequately treated for the intended use or properly managed. The proposed amendments to the CPC, promulgated by authority of Water Code Section 13557, are intended to address this concern and provide design standards to safely plumb buildings with both potable and recycled water systems. The proposed amendments incorporate protections to comply with the requirements of the State Water Resources Control Board, which are designed to protect public health, safety, and welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

(Gov. Code, § 11346.5, subd. (a)(9).)

DWR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

(Gov. Code, § 11346.5, subd. (a)(10).)

DWR has assessed whether or not and to what extent this proposal will affect the following:

- ☐ **The creation or elimination of jobs within the State of California.**

The proposed amendments will not create or eliminate jobs.

☐ **The creation of new businesses or the elimination of existing businesses within the State of California.**

The proposed amendments will not create or eliminate businesses.

☐ **The expansion of businesses currently doing business with the State of California.**

The proposed amendments will not affect the expansion of businesses currently doing business with the State of California. The CPC as currently in effect and as changed by the proposed amendments facilitates the use of recycled water, and thereby could allow business to expand in areas that are constrained by water availability.

☐ **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**

The proposed amendments will update and improve California Plumbing Code standards for the safe use of recycled water in buildings with both potable and recycled water.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

(Gov. Code, § 11346.5, subd. (a)(12).)

The Department of Water Resources has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

(Gov. Code, § 11346.5, subd. (a)(13).)

DWR has determined that no reasonable alternative considered by DWR or that has otherwise been identified and brought to the attention of DWR would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

(Gov. Code, §§ 11346.5, subd. (a)(16) and (a)(20).)

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

(Gov. Code, § 11346.5, subd. (a)(19).)

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

(Gov. Code, § 11346.5, subd. (a)(21).)

DWR shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

(Gov. Code, § 11346.5, subd. (a)(14).)

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman, Deputy Executive Director

2525 Natomas Park Drive, Suite 130

Sacramento, CA 95833

Telephone No.: (916) 263-0916

Michael.Nearman@dgs.ca.gov

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL
QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Mills, Chief

Water Recycling and Desalination Section

California Department of Water Resources

(916) 651-0715

Richard.Mills@water.ca.gov

or

Nancy King, Engineer, Water Resources

Water Recycling and Desalination Section

California Department of Water Resources

(916) 651-7200

Nancy.King@water.ca.gov